IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6309 of 1993

For Approval and Signature:

HON'BLE MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

GUJARAT STATE ROAD TRANSPORT CORPORATION

Versus

KR PADALIA

Appearance:

1. Special Civil Application No. 6309 of 1993

MS BHAVIKA KOTECHA for MR YOGESH S LAKHANI for the Petitioner

MR MUKESH H RATHOD for the Respondent

CORAM : HON'BLE MISS JUSTICE R.M.DOSHIT

Date of decision: 05/10/2004

ORAL JUDGEMENT

The petitioner - Gujarat State Road Transport Corporation (hereinafter referred to as "the Corporation") challenges the judgment and award dated 29th September, 1992 passed by the Industrial Tribunal, Rajkot (hereinafter referred to as "the Tribunal") in Reference (ITR) No.593/1984. By impugned award the punishment of reduction in pay to the lowest stage in the pay-scale imposed upon the delinquent workman has been substituted and a punishment of reduction in pay by three stages has been awarded. The Corporation is also directed to pay 80% of the wages to the delinquent workman from the date he was dismissed from service till he was reinstated in service by the appellate board of the Corporation.

The respondent (hereinafter referred to as "the workman"), a Conductor in the Corporation, was alleged to have misappropriated the Corporation's funds. It was alleged that on 10th January, 1977 when the workman was on duty on Dhoraji-Thaniyana route, he had issued tickets to the passengers in denomination lesser than the amount of fare he had collected from the passengers and he had reissued the used tickets. For the said act of misconduct a disciplinary proceeding was held against the workman. The misconduct was held to be proved. The disciplinary authority, for the said act of misconduct proved against the workman, imposed punishment of withholding of three increments with permanent effect. The said order of punishment was taken in review by the reviewing authority. The reviewing authority, after following the due procedure, enhanced the punishment imposed upon the workman and dismissed the workman from service. The said order of dismissal was challenged by the workman before the appellate board of the Corporation. The appellate board, by its order dated 12th August, 1980, set aside the order of dismissal from service made by the reviewing authority. The appellate board ordered reinstatement of the workman with the benefit of continuity in service. The workman was ordered to be visited with punishment of reduction in pay to the lowest stage in the scale. The payment of backwages was refused. Feeling aggrieved by the said order dated 12th August, 1980, in so far as the payment of backwages was refused and the punishment of reduction in pay was imposed, the workman raised the industrial dispute. The said dispute was referred to the Tribunal and was registered as above. The Tribunal, without recording the reasons for the same, by impugned judgment and award, ordered payment of 80% of backwages and substituted the punishment of reduction in pay to the lowest stage by that of reduction in pay by three stages.

Feeling aggrieved, the Corporation has preferred the present petition.

As held by the Division Bench of this Court in the matter of Municipal Corporation of the City of Ahmedabad v/s. Hussainmiya Chandmiya [1987 LAB.I.C. 1564], an industrial tribunal/court or labour court would be justified in invoking jurisdiction conferred upon it by Section 11-A of the Industrial Disputes Act, 1947 in case where the punishment imposed upon the workman is found to be illegal or shockingly disproportionate. In the present case, the charges levelled against the workman of issuing tickets of lesser denomination than the amount of fare collected by him and of reissuing the used tickets have been proved. Neither the Appellate Board nor the Tribunal interfered with the said finding of guilt. The finding of guilt recorded by the disciplinary authority was not even challenged before the Tribunal. Thus, admittedly the workman had committed grave misconduct of financial irregularity amounting to misappropriation of the funds of the Corporation. For such grave misconduct no lenient view can be taken. However, the Appellate Board of the Corporation, without recording the reasons for the same, ordered reinstatement of the workman in service and imposed a lesser punishment of reduction in pay.

Considering the grave misconduct committed by the workman, the Tribunal could not have invoked jurisdiction conferred by Section 11-A of the Act in holding that the Tribunal felt that downgrading of the pay to the basic minimum was unreasonable and uncalled for. Moreover, the workman has been rewarded by payment of 80% of the backwages. In my view, this is a case of wrong exercise of jurisdiction conferred by Section 11-A of the Act and amounts to abuse of discretionary jurisdiction conferred by Section 11-A of the Act. The Appellate Board of the Corporation had already been overindulgent to the workman. The workman did not deserve greater sympathy by the Tribunal.

In view of the above discussion the petition is allowed. The impugned judgment and award dated 29th September, 1992 passed by the Industrial Tribunal, Rajkot in Reference (ITR) No.593/1984 is quashed and set aside. The claim made by the workman stands rejected. Rule is made absolute. There shall be no order as to cost.

(Ms. R.M.Doshit, J.)
/sakkaf